

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



## Wisconsin Department of Regulation & Licensing Access to the Public Records of the Reports of Decisions

This Reports of Decisions document was retrieved from the Wisconsin Department of Regulation & Licensing website. These records are open to public view under Wisconsin's Open Records law, sections 19.31-19.39 Wisconsin Statutes.

### Please read this agreement prior to viewing the Decision:

- The Reports of Decisions is designed to contain copies of all orders issued by credentialing authorities within the Department of Regulation and Licensing from November, 1998 to the present. In addition, many but not all orders for the time period between 1977 and November, 1998 are posted. Not all orders issued by a credentialing authority constitute a formal disciplinary action.
- Reports of Decisions contains information as it exists at a specific point in time in the Department of Regulation and Licensing data base. Because this data base changes constantly, the Department is not responsible for subsequent entries that update, correct or delete data. The Department is not responsible for notifying prior requesters of updates, modifications, corrections or deletions. All users have the responsibility to determine whether information obtained from this site is still accurate, current and complete.
- There may be discrepancies between the online copies and the original document. Original documents should be consulted as the definitive representation of the order's content. Copies of original orders may be obtained by mailing requests to the Department of Regulation and Licensing, PO Box 8935, Madison, WI 53708-8935. The Department charges copying fees. *All requests must cite the case number, the date of the order, and respondent's name as it appears on the order.*
- Reported decisions may have an appeal pending, and discipline may be stayed during the appeal. Information about the current status of a credential issued by the Department of Regulation and Licensing is shown on the Department's Web Site under "License Lookup." The status of an appeal may be found on court access websites at: <http://ccap.courts.state.wi.us/InternetCourtAccess> and <http://www.courts.state.wi.us/wscca>.
- Records not open to public inspection by statute are not contained on this website.

**By viewing this document, you have read the above and agree to the use of the Reports of Decisions subject to the above terms, and that you understand the limitations of this on-line database.**

**Correcting information on the DRL website:** An individual who believes that information on the website is inaccurate may contact the webmaster at [web@drl.state.wi.gov](mailto:web@drl.state.wi.gov)

STATE OF WISCONSIN  
BEFORE THE PHARMACY EXAMINING BOARD

-----  
-----  
IN THE MATTER OF DISCIPLINARY  
PROCEEDINGS AGAINST

WALGREEN 3616,  
RESPONDENT.

**FINAL DECISION AND ORDER**

97 PHM 50  
LS9910136PHM

-----  
-----  
The parties to this action for the purposes of §227.53, Wis. Stats., are:

*Walgreen Company  
200 Wilmot Road  
Deerfield, IL 60015-4616  
Wisconsin Pharmacy Examining Board  
P.O. Box 8935  
Madison, WI 53708-8935*

*Department of Regulation and Licensing  
Division of Enforcement  
P.O. Box 8935  
Madison, WI 53708-8935*

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of this matter, subject to the approval of the Board. The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

**FINDINGS OF FACT**

1. Respondent Walgreen 3616 is and was at all times relevant to the facts set forth herein a community pharmacy licensed in the State of Wisconsin pursuant to license #7472, located at 8488 W. Brown Deer Rd, Milwaukee, WI 53224, and wholly owned and operated by Walgreen Company, which was solely responsible for its management.
2. On August 19, 1997, respondent to the Board that it had terminated a former managing pharmacist at this location, Craig R. Osness, R.Ph., in November, 1996, because Osness was believed to be impaired by the use of controlled substances and failed to comply with the employer's request for a medical clearance. Respondent's staff had reported on several occasions during the summer and fall of 1996 that Osness had been apparently reported to be impaired by customers and a physician during interactions with them, and several employees reported seeing him at work in an obviously impaired state.
3. On August 19, 1997, respondent also reported to the Board that an audit conducted following Osness's termination showed that approximately 58,000 dosage units of solid form controlled substances (opiates, benzodiazepines, phentermine, and butalbital), and 5 pints of liquid form hydrocodone and codeine, were missing from inventory over a period of approximately 22 months. The employer did not give permission for anyone to take these substances, and there is no record of any payment or prescription order for them.
4. At a time unknown, but shortly after Osness' termination, the immediate supervisor of Osness drafted a letter to the Board informing the Board of Osness' apparent condition. The supervisor showed the letter to management staff of Walgreen Company, who ordered the supervisor not to send the letter because in their judgment it

contained inappropriate language. However, the reviewing staff did not instruct the supervisor to redraft the letter, and did not take any steps to inform the Board of Osness' condition or the fact that there was a very substantial quantity of controlled substances missing from the pharmacy.

#### CONCLUSIONS OF LAW

A. The Wisconsin Pharmacy Examining Board has jurisdiction to act in this matter pursuant to §450.10, Wis. Stats. and is authorized to enter into the attached Stipulation pursuant to §227.44(5), Wis. Stats.

B. The conduct described in ¶¶2-4, above, violated §450.10(1)(a)2., Wis. Stats., and § Phar 10.03(7), Wis. Adm. Code. Respondent had a duty to promptly report Osness and the theft or loss of controlled substances to the Board, under the facts and circumstances of this case. A report some nine months later is not timely with respect to reporting Osness, and is not "upon discovery" within the meaning of § Phar 8.02(3)(f), Wis. Adm. Code. Such conduct constitutes unprofessional conduct within the meaning of the Code and statutes.

C. The conduct described in ¶3, above, violated § Phar 8.02(1), Wis. Adm. Code, in that respondent cannot account for the controlled substances described. Such conduct constitutes unprofessional conduct within the meaning of the Code and statutes.

#### ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, that the attached Stipulation is accepted.

IT IS FURTHER ORDERED, that Walgreen 3616 shall FORFEIT \$60,000 in this matter, to be paid within 30 days of this order. This amount is \$1 per dosage unit, for being unable to account for each unit, \$1,000 for failing to timely report Osness, and \$1,000 for failing to timely report the loss.

IT IS FURTHER ORDERED, that respondent shall pay COSTS in this matter in the amount of \$3,600, within 30 days of this order.

IT IS FURTHER ORDERED, that pursuant to §227.51(3), Wis. Stats., and ch. RL 6, Wis. Adm. Code, if the Board determines that there is probable cause to believe that respondent has violated any term of this Final Decision and Order, the Board may order that the license of respondent be summarily suspended pending investigation of the alleged violation.

Dated this October 13, 1999.

WISCONSIN PHARMACY EXAMINING BOARD, by:

John Bohlman, R.Ph.

a member of the board